

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA,)
)
)
v.) CASE NO. DNCW310CR168-001
)
)(Financial Litigation Unit)
DONALD RAY MILLS,)
)
and)
)
NC DEP'T OF STATE TREASURER,)
 Garnishee.)

ORDER OF CONTINUING GARNISHMENT

THIS MATTER is before the Court on the Answer of North Carolina Department of State Treasurer as Garnishee (Docket #30). In addition to the Garnishee's response, the Court has received and reviewed the Motion to Claim Exempt Property filed by Defendant (Docket #32) and Government's Reply to Answer of Garnishee (Docket #33).

On May 11, 2011, the Honorable Frank D. Whitney sentenced Defendant to nine (9) months in prison for his convictions of Illegal Gambling Business and Tax Evasion in violation of 26 U.S.C. §7201 and 18 U.S.C. §1955. Judgment in the criminal case was filed on May 17, 2011 (Docket No. 18). As part of that Judgment, Defendant was ordered to pay an assessment of \$200 and restitution of \$111,004.91 to the victims of these offenses. *Id.*

On July 13, 2011, the Court entered a Writ of Continuing Garnishment ("Writ") (Docket No. 24) to Garnishee, North Carolina Department of State Treasurer ("Garnishee"). The United States is entitled to a garnishment of 100% of Defendant's periodic pension distributions, net of any mandatory tax withholdings, and has satisfied the prerequisites set forth in 15 U.S.C. § 1673. Defendant and Garnishee were individually served with the Writ on July 15, 2011. Garnishee filed an Answer on July 22, 2011 (Docket No. 30) stating that at the time of the service of the Writ,

Garnishee anticipates owing Defendant a monthly annuity in the amount of \$1178.26. The United States filed a reply to Garnishee's Answer on August 29, 2011 (Docket No. 33).

IT IS THEREFORE ORDERED that an Order of Continuing Garnishment is hereby ENTERED in the amount of \$111,004.91 computed through August 25, 2011. Garnishee shall pay the United States 100% of Defendant's periodic pension distributions which remain after all deductions required by law have been withheld. Garnishee shall continue said payments until the debt to the United States is paid in full or until further order of this Court.

Payments should be made payable to the United States Clerk of Court and mailed to the Clerk of the United States District Court, 401 West Trade Street, Charlotte, NC 28202. In order to ensure that each payment is credited properly, the following should be included on each check: Court Number DNCW3:10CR168.

The United States will submit this debt to the Treasury for inclusion in the Treasury Offset Program. Under this program, any federal payment Defendant would normally receive may be offset and applied to this debt.

SO ORDERED.

Signed: December 7, 2011



David S. Cayer
United States Magistrate Judge

